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6 Attorneys for the Official Committee of Unsecured  
 Creditors

7  
 8 UNITED STATES BANKRUPTCY COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 OAKLAND DIVISION

11 In re:

12 A.F. Evans Company, Inc.,

13 Debtor.

Case No.: 09-41727-EDJ

Chapter 11

**OBJECTION OF OFFICIAL  
 COMMITTEE OF UNSECURED  
 CREDITORS TO DISTRIBUTION OF  
 SALE PROCEEDS TO CITY  
 NATIONAL BANK**

*[No Hearing Requested]*

17  
 18 The Official Committee of Unsecured Creditors (the "Committee") of the above-captioned  
 19 debtor and debtor in possession herein (the "Debtor") hereby objects to the distribution of any  
 20 proceeds from the sale of the Debtor's assets to City National Bank ("CNB") on the basis that the  
 21 security interests asserted by CNB against the Debtor appear to have been terminated. The  
 22 Committee submits this objection in connection with the Court's *Order Granting Motion to Sell and*  
 23 *Assign Partnership Interest* (the "Sale Order"), entered on April 9, 2009, pursuant to which the  
 24 Court authorized the Debtor to sell (the "Sale") its general partnership interest in AFE-Pioneer  
 25 Associates, LP ("AFE-Pioneer"). As part of the Sale Order, the Debtor is required to immediately  
 26 remit 87.5% of the proceeds of the Sale to CNB, unless the Committee timely raises a defect in  
 27 CNB's asserted security interests. The Committee's deadline to object was extended by stipulation  
 28 of the parties and order of the Court to May 5, 2009.

OBJECTION TO DISTRIBUTION OF SALE PROCEEDS  
 TO CITY NATIONAL BANK

As set forth more fully below, the Committee believes that CNB's asserted liens against the Debtor's assets, specifically including its interests in AFE-Pioneer, may be defective. Accordingly, the Court should decline to allow any sale proceeds to be remitted to CNB at this time. At most, such sale proceeds should be segregated pending the determination of the validity of CNB's asserted security interests against the Debtor.<sup>1</sup> The factual assertions set forth herein are supported by the *Declaration of Maxim B. Litvak* submitted concurrently herewith (the "Litvak Declaration").

## I.

### INTRODUCTION

The official record of the California Secretary of State (the "Secretary") reveals that CNB's underlying financing statement against the Debtor has been terminated. It appears that two termination statements were filed of record as part of the Debtor's sale earlier this year of two partnership interests. Instead of merely reflecting a release of collateral covering these two pending sales, the termination box was checked on two amendments filed with the Secretary. As a result, the Secretary officially listed CNB's original financing statement as having been terminated. Within a matter of days, CNB filed correction statements in an effort to explain that its security interest had not been terminated, but these efforts were ineffective because the underlying financing statement had already been terminated as a matter of record. CNB also did not file a new financing statement at that time (such filing would have been avoidable in any case as a preferential transfer).

The Committee does not yet know who filed the termination statements at issue or why the termination box was checked. CNB has provided the Committee with documents evidencing that CNB approved the proper forms to be filed releasing only certain specified collateral, and delivered such forms to First American Title Insurance Company ("First American"), the escrow agent for the contemplated asset sales, with authority to file such documents on CNB's behalf. For reasons that are not yet clear, the actual documents that were filed with the Secretary were the same ones approved by CNB, but with the termination box checked (apparently by way of a handwritten addition to the documents). Further investigation and discovery will be required to determine what

<sup>1</sup> The Committee is informed that the sale of the Debtor's general partnership interest in AFE-Pioneer has not yet closed and remains pending. There are no other sales that have been approved by the Court to date.

1 exactly happened, but based on the evidence available to date, it is clear that CNB's asserted security  
 2 interests in the Debtor's assets are very much in doubt. Indeed, the Secretary reflects in the official  
 3 record that CNB's underlying financing statement has been terminated.

4 Accordingly, the Committee urges the Court to order that the proceeds of the pending Sale  
 5 (or any other sale) of the Debtor's assets should not be paid to CNB on account of its prepetition  
 6 claims at this time. If necessary, such proceeds can be set aside pending further order of the Court.  
 7 In this regard, it also bears mention that the Court is fully authorized to approve the Sale of the  
 8 Debtor's interests in AFE-Pioneer (even over CNB's objection), pursuant to section 363(f)(4) of the  
 9 Bankruptcy Code, because CNB's asserted liens are now the subject of a bona fide dispute.

## 10 II.

### 11 RELEVANT FACTS

12 On August 9, 2004, CNB filed a UCC Financing Statement (the "Original Financing  
 13 Statement") with the Secretary in order to perfect its security interest in "All Inventory, Accounts  
 14 (Fees Receivable), General Intangibles, Equipment and Chattel Paper" owned by the Debtor. A  
 15 copy of the Original Financing Statement is attached to the Litvak Declaration as **Exhibit A**.

16 In January 2009, the Debtor sold its general partnership interests in Westgate Housing  
 17 Associates L.P. ("Westgate") and Greenery Housing Associates, L.P. ("Greenery"). On January 8,  
 18 2009, Rick Bell, an officer of the Debtor, sent an email to CNB attaching proposed releases of  
 19 CNB's security interests in Westgate and Greenery and escrow instructions with respect to the  
 20 contemplated sales of such assets. A copy of this email is attached to the Litvak Declaration as  
 21 **Exhibit B**.

22 Subsequently, CNB delivered correspondence to First American (these documents were also  
 23 addressed to the Debtor) confirming that CNB would release its security interests in Westgate and  
 24 Greenery upon payment of the purchase price from the pending sales of these assets. This  
 25 correspondence is attached to the Litvak Declaration as **Exhibit C**. As part of such correspondence  
 26 to First American, CNB expressly "*authorize[d] the filing of appropriate amendments*" to the  
 27 Original Financing Statement (emphasis added). CNB has also informed the Committee that  
 28 amended financing statements, in the form attached to the Litvak Declaration as **Exhibit D**, were

1 also provided by CNB to First American. These forms do not have the termination box checked.  
2 Instead, they only have the release of collateral box checked.

3 On January 28, 2009, two UCC Financing Statement Amendments (the "Termination  
4 Statements") referencing the Original Financing Statement were filed with the Secretary. The  
5 Termination Statements were identical to the forms previously approved by CNB, but with one  
6 glaring difference. Both Termination Statements had the termination box checked, which was  
7 followed by standard language stating that: "Effectiveness of the Financing Statement identified  
8 above is terminated with respect to security interest(s) of the Secured Party authorizing this  
9 Termination Statement." A copy of both Termination Statements is attached to the Litvak  
10 Declaration as **Exhibit E**. The Committee does not yet know who filed the Termination Statements,  
11 but they were duly recorded by the Secretary as having terminated the Original Financing Statement.  
12 A copy of pertinent excerpts of the summary of UCC filings recorded by the Secretary against the  
13 Debtor is attached to the Litvak Declaration as **Exhibit F**.

14 On February 6, 2009, CNB filed two additional UCC Financing Statement Amendments (the  
15 "Correction Statements") stating that the Termination Statements were filed without CNB's  
16 authority and that CNB had only authorized the release of its security interest in the Debtor's interest  
17 in the Westgate and Greenery general partnership interests. Copies of the Correction Statements are  
18 attached to the Litvak Declaration as **Exhibit G**. However, these Corrections Statements were  
19 ineffective because the Original Financing Statement had already been terminated. CNB clearly  
20 authorized the filing of "appropriate amendments" to the Original Financing Statement.  
21 Unfortunately for CNB, the wrong amendments were filed. Under California law, CNB may now  
22 have a claim against the party that made such mistake, but from the perspective of this estate, CNB  
23 appears to be a mere unsecured creditor.

24 ///

25 ///

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1 III.

2 ARGUMENT

3 **A. The Termination Statements Were Authorized and Effective in Terminating CNB's**  
 4 **Security Interests Against the Debtor**

5 Section 9513(d) of the California Commercial Code provides that:

6 Except as otherwise provided in Section 9510, upon the filing of a  
 7 termination statement with the filing office, the financing statement to  
 8 which the termination statement relates ceases to be effective.

9 Section 9510(a) of the California Commercial Code provides that "[a] filed record is  
 10 effective only to the extent that it was filed by a person that may file it under Section 9509."

11 Section 9509(d) of the California Commercial Code provides in pertinent part:

12 A person may file an amendment other than an amendment that adds  
 13 collateral covered by a financing statement or an amendment that adds  
 14 a debtor to a financing statement only if . . . The secured party of  
 15 record authorizes the filing.

16 These statutory provisions make clear that a termination statement is effective if it is  
 17 "authorized" by the secured party -- meaning that a third party with no relationship with the secured  
 18 party cannot simply file a termination statement because they feel like doing so. Unfortunately,  
 19 neither the California Commercial Code nor the Uniform Commercial Code, upon which it is based,  
 20 define the term "authorizes." The Official Comments to section 9509 of the Uniform Commercial  
 21 Code state in relevant part that: "Law other than this Article . . . generally determines whether a  
 22 person has the requisite authority to file a record under this section."

23 As a matter of applicable California law, it appears that CNB authorized its agent, First  
 24 American, to file "appropriate amendments" to the Original Financing Statement and is now bound  
 25 by the Termination Statements that were actually filed (even if such filings contain mistakes).

26 **B. CNB is Bound By the Mistakes of Its Agent While Acting Within the Scope of Such**  
 27 **Agent's Authority**

28 "An agent is one who represents another, called the principal, in dealings with third persons."  
 CAL. CIV. CODE § 2295. "An agent may be authorized to do any acts which his principal might do,  
 except those to which the latter is bound to give his personal attention." CAL. CIV. CODE § 2304.

1 Consideration is unnecessary to create an agency. CAL. CIV. CODE § 2308. Finally, “[a]ctual  
2 authority is such as a principal intentionally confers upon the agent, or intentionally, or by want of  
3 ordinary care, allows the agent to believe himself to possess.” CAL. CIV. CODE § 2316.

4 Here, CNB authorized First American to amend CNB’s Original Financing Statement to  
5 release CNB’s security interests in the Westgate and Greenery assets. First American was acting as  
6 the escrow agent in that sale transaction and CNB designated First American as agent for the limited  
7 purpose of effectuating the necessary filings. Although the Committee does not yet know who  
8 actually filed the Termination Statements, to the extent they were filed by First American, the  
9 escrow agent was clearly acting within the scope of its authority and CNB is now responsible for the  
10 ramifications of First American’s conduct. (CNB may have a claim against the party that wrongfully  
11 filed the Termination Statements, but that is not an issue for this estate. See CAL. CIV. CODE §  
12 9625.)

13 The Ninth Circuit long ago established that an agent’s mistake or disregard of the principal’s  
14 instructions does not take the agent’s actions outside the scope of the agent’s authority. In *Goddard*  
15 *v. Metropolitan Trust Co. of California*, 82 F.2d 902 (9<sup>th</sup> Cir. 1936), a principal authorized an agent  
16 to make a loan to a third person and to acquire a security interest in collateral in exchange for the  
17 loan. The agent made the loan but failed to acquire the security interest. The principal then sued the  
18 agent for conversion for giving away the principal’s money without authorization. The court held  
19 that while the agent clearly violated the principal’s instructions, he was still acting within the scope  
20 of his agency, and, therefore, could not be found liable for conversion. *Id.* at 904.

21 Here, like the agent in *Goddard*, First American (to the extent that it is the responsible party  
22 for the Termination Statements at issue) may have acted contrary to CNB’s intentions or even its  
23 directions, but it was still acting within the scope of CNB’s authorization to file the “appropriate  
24 amendments” of the Original Financing Statement. As the Ninth Circuit stated in *Goddard*, “[t]he  
25 complaint shows, not a complete departure from the agent’s authority, but a mere violation of the  
26 principal’s instructions regarding the manner in which the authority should be exercised.” *Goddard*,  
27 82 F.2d at 904. That may be precisely what happened here. First American was supposed to file  
28 amendments to the Original Financing Statement releasing certain specified collateral in accordance

1 with CNB's direction, but First American may have made the mistake of filing the Termination  
2 Statements instead. Under *Goddard*, this mistake does not render the action unauthorized.

3 Other cases bolster the point. For example, in *Morrow Crane Co. v. Affiliated FM Ins. Co.*,  
4 885 F.2d 612 (9<sup>th</sup> Cir. 1989), an agent violated his principal's instructions by contracting to have  
5 cranes shipped above deck, instead of below deck. The court held that although the agent had  
6 botched the job, the principal nonetheless remained bound by the agent's contract with the shipper  
7 because the agent entered into the contract while performing the assigned task of arranging  
8 shipment. *Id.* at 615. The same is true here. Even though First American may have checked the  
9 wrong box, CNB remains bound because First American was performing its assigned task of  
10 amending the Original Financing Statement.

11 Finally, in *Smith v. Deutsch*, 89 Cal.App.2d 419, 425 (Cal. Ct. App. 1949), the court stated:

12 It is not necessary that a specific act, or failure to act, be authorized as  
13 such by the principal to bring it within the scope of the agent's  
14 authority. *It is within the scope of his authority if it is done while the  
agent is engaged in the transaction of business which has been  
assigned to him for attention by his principal . . . (emphasis added).*

15 Here, First American may have made a mistake while "engage[d] in the transaction of business  
16 which [had] been assigned" by CNB, which was to amend the Original Financing Statement, but  
17 CNB remains bound and the Termination Statements were effective.

18 **C. The Termination Statements Are Effective Even if They Were Filed By Mistake**

19 The Ninth Circuit has held that a termination statement filed by mistake is effective in  
20 terminating the creditor's security interest. In *Koehring Company v. Nolden (In re Pacific Trencher  
21 & Equip., Inc.)*, 735 F.2d 362 (9<sup>th</sup> Cir. 1984), a secured lender agreed to release its security interest  
22 in certain of the debtor's assets. It inadvertently checked the termination box and listed the released  
23 collateral. Later discovering its mistake, the lender filed a new financing statement. When  
24 the debtor filed bankruptcy, the secured lender filed an adversary proceeding seeking to reform its  
25 financing statement to provide that it had not been terminated. The Ninth Circuit ruled that  
26 reformation did not apply.

27 ///

28 ///



1 The Ninth Circuit also rejected the argument that mistakenly checking the termination box,  
2 but also listing released collateral, was not “seriously misleading” pursuant to section 9506 of the  
3 California Commercial Code. The Ninth Circuit held:

4 It is not determinative that no actual creditor was misled. It matters  
5 that a potential creditor could have been misled. Consequently, it is  
6 the conclusion of this court that the error resulting in the termination of  
the financing statement was seriously misleading viewed from the  
standpoint of a potential creditor reviewing the records.

7 *Id.* at 364 (quotations and citations omitted). The Ninth Circuit also rejected the secured lender’s  
8 argument that the financing statement was only a termination as to the collateral that was listed.  
9 “Checking the Termination box operates as complete termination of the financing statement.” *Id.* at  
10 364-65.

11 Other courts agree. See *Crestar Bank v. Neal (In re Kitchen Equip. Co. of Virginia)*, 960  
12 F.2d 1242 (4th Cir. 1992) (lender checked termination box, but then listed collateral to be released;  
13 held: financing statement was terminated); *Peoples Bank of Kentucky, Inc. v. US Bank (In re SJ Cox*  
14 *Enters., Inc.)*, 2009 WL 939573 \*4 (Bankr. E.D. Ky. 2009) (“[t]he filing of a termination statement  
15 cannot be considered a minor error.”); *In re Hampton*, 2001 WL 1860362 (Bankr. M.D. Ga. 2001)  
16 (creditor was unsecured where it mistakenly terminated financing statement); *In re Silvernail Mirror*  
17 *& Glass, Inc.*, 142 B.R. 987, 989 (Bankr. M.D. Fla. 1992) (court could not apply equitable principles  
18 to reinstate creditor’s lien against debtor’s assets where creditor mistakenly filed a termination  
19 statement terminating its financing statement).

20 Accordingly, even if the Termination Statements were filed by mistake, they were effective  
21 in terminating CNB’s asserted security interests against the Debtor. The fact that both the  
22 termination and release of collateral boxes were checked does not change this result, neither does  
23 CNB’s subsequent filing of the Correction Statements. As reflected in the Secretary’s official  
24 record, the Original Financing Statement has been terminated.

#### 25 IV.

#### 26 CONCLUSION

27 Based on the foregoing, there is a bona fide dispute as to the validity of CNB’s asserted liens  
28 against the Debtor. It appears that CNB’s liens were terminated prepetition. Although the



1 Committee does not yet have all the facts, there is clearly enough of an issue here to suspend any  
 2 immediate distribution of sale proceeds to CNB. In light of this dispute, the Court is also well within  
 3 its authority to authorize the pending Sale of the Debtor's interests in AFE-Pioneer over CNB's  
 4 objection (to the extent one is asserted) pursuant to section 363(f)(4) of the Bankruptcy Code.

5 Dated: May 5, 2009

PACHULSKI STANG ZIEHL & JONES LLP

6  
 7 By /s/ Pamela E. Singer  
 8 Pamela E. Singer  
 9 Attorneys for the Official Committee of  
 10 Unsecured Creditors  
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PACHULSKI STANG ZIEHL & JONES LLP  
 ATTORNEYS AT LAW  
 SAN FRANCISCO, CALIFORNIA

OBJECTION TO DISTRIBUTION OF SALE PROCEEDS  
 TO CITY NATIONAL BANK

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 Pamela E. Singer (CA Bar No. 224758)  
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6 Attorneys for the Official Committee of Unsecured  
 7 Creditors

8 UNITED STATES BANKRUPTCY COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 OAKLAND DIVISION

11 In re:

12 A.F. Evans Company, Inc.,

13 Debtor.

Case No.: 09-41727-EDJ

Chapter 11

**DECLARATION OF MAXIM B.  
 LITVAK IN SUPPORT OF  
 OBJECTION OF OFFICIAL  
 COMMITTEE OF UNSECURED  
 CREDITORS TO DISTRIBUTION OF  
 SALE PROCEEDS TO CITY  
 NATIONAL BANK**

*[No Hearing Requested]*

18  
 19 I, Maxim B. Litvak, declare as follows:

- 20 1. I am a partner of Pachulski Stang Ziehl & Jones LLP, counsel to the Official  
 21 Committee of Unsecured Creditors (the "Committee") in the above-captioned case. I submit this  
 22 Declaration in support of the *Objection of Official Committee of Unsecured Creditors to Distribution*  
 23 *of Sale Proceeds to City National Bank* (the "Objection"). Unless otherwise defined herein,  
 24 capitalized terms have the meanings ascribed to them in the Objection. I have personal knowledge  
 25 of the facts set forth herein and, if called as a witness, I would and could competently testify thereto.
- 26 2. The Committee has submitted the Objection in connection with the Court's *Order*  
 27 *Granting Motion to Sell and Assign Partnership Interest* (the "Sale Order"), entered on April 9,  
 28 2009, pursuant to which the Court authorized the Debtor to sell (the "Sale") its general partnership

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SAN FRANCISCO, CALIFORNIA

1 interest in AFE-Pioneer Associates, LP ("AFE-Pioneer"). As part of the Sale Order, the Debtor is  
2 required to immediately remit 87.5% of the proceeds of the Sale to CNB, unless the Committee  
3 timely raises a defect in CNB's asserted security interests. The Committee's deadline to object was  
4 extended by stipulation of the parties and order of the Court to May 5, 2009.

5 3. I am informed that the sale of the Debtor's general partnership interest in AFE-  
6 Pioneer has not yet closed and remains pending. There are no other sales that have been approved  
7 by the Court to date.

8 4. On August 9, 2004, CNB filed a UCC Financing Statement (the "Original Financing  
9 Statement") with the California Secretary of State (the "Secretary"). A true and copy of the Original  
10 Financing Statement is attached hereto as **Exhibit A**.

11 5. Based on information provided by the Debtor and CNB, in January 2009, the Debtor  
12 sold its general partnership interests in Westgate Housing Associates L.P. ("Westgate") and  
13 Greenery Housing Associates, L.P. ("Greenery").

14 6. On January 8, 2009, Rick Bell, an officer of the Debtor, sent an email to CNB  
15 attaching proposed releases of CNB's security interests in Westgate and Greenery and escrow  
16 instructions with respect to the contemplated sales of such assets. A true and copy of this email is  
17 attached hereto as **Exhibit B**.

18 7. Subsequently, I am informed that CNB delivered correspondence to First American  
19 (these documents were also addressed to the Debtor) confirming that CNB would release its security  
20 interests in Westgate and Greenery upon payment of the purchase price from the pending sales of  
21 these assets. A true and correct copy of this correspondence is attached hereto as **Exhibit C**.

22 8. CNB has informed the Committee that amended financing statements, in the form  
23 attached hereto as **Exhibit D**, were also provided by CNB to First American.

24 9. On January 28, 2009, two UCC Financing Statement Amendments (the "Termination  
25 Statements") referencing the Original Financing Statement were filed with the Secretary. A true and  
26 correct copy of both Termination Statements is attached hereto as **Exhibit E**.

27 ///

28 ///

DECLARATION OF MAXIM B. LITVAK

1           10.     The Termination Statements were duly recorded by the Secretary as having  
2 terminated the Original Financing Statement. A true and copy of pertinent excerpts of the summary  
3 of UCC filings recorded by the Secretary against the Debtor is attached hereto as **Exhibit F**.

4           11.     On February 6, 2009, CNB filed two additional UCC Financing Statement  
5 Amendments (the "Correction Statements"). A true and correct of the Correction Statements are  
6 attached hereto as **Exhibit G**.

7           To the best of my knowledge, I declare under penalty of perjury that the foregoing is true and  
8 correct.

9           Executed this 5th day of May 2009, at San Francisco, California.

11                                 /s/ Maxim B. Litvak  
12                                 Maxim B. Litvak

PACHULSKI STANG ZIEHL & JONES LLP  
ATTORNEYS AT LAW  
SAN FRANCISCO, CALIFORNIA

28



# **Exhibit A**

Aug-08-04 10:48am From:AF EVANS DEVELOPMENT OAKLAND

+5108818004

T-305 P.003/003 F-467

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME &amp; PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

A. F. Evans Company, Inc.  
1000 Broadway, Suite 300  
Oakland, CA 94607

04-1000359638

08/09/2004 13:48



FILED

CALIFORNIA  
SECRETARY OF STATE

SOS



UCC FILING

1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME

A. F. Evans Company, Inc.

OR 1b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

1c. MAILING ADDRESS

1000 Broadway, Suite 300

CITY

Oakland

STATE

CA

POSTAL CODE

94607

COUNTRY

1d. TAX ID #: SSN OR EIN

ADDL INFO RE

ORGANIZATION

DEBTOR

1e. TYPE OF ORGANIZATION

Corporation

1f. JURISDICTION OF ORGANIZATION

CA

1g. ORGANIZATIONAL ID #: If any

☒ NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR 2b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

2c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

2d. TAX ID #: SSN OR EIN

ADDL INFO RE

ORGANIZATION

DEBTOR

2e. TYPE OF ORGANIZATION

2f. JURISDICTION OF ORGANIZATION

2g. ORGANIZATIONAL ID #: If any

☐ NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR &amp;P) - Insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME

City National Bank

OR 3b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

3c. MAILING ADDRESS

150 California Street, 13th Floor

CITY

San Francisco

STATE

CA

POSTAL CODE

94111

COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

All Inventory, Accounts (Fees Receivable), General Intangibles, Equipment and Chattel Paper; whether any of the foregoing is owned now or acquired later; accessions, additions, replacements and substitutions relating to any of the foregoing; all records of any kind relating to any of the foregoing; all proceeds relating to any of the foregoing (including insurance, general intangibles and other accounts proceeds).

Except Development Fees receivable from AFE-Evergreen limited partnership (a Washington L.P.). The remaining portion of the \$1,000,000 fee described in the development agreement dated September 7, 2000.

5. ALTERNATIVE DESIGNATION (if applicable):	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOR	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. (THIS FINANCING STATEMENT is to be filed (or record) (or possession) in the REAL ESTATE RECORDS. Attach Address(es) (if applicable) (ADDITIONAL FILE) (optional)	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (optional)					
8. OPTIONAL FILER REFERENCE DATA	All Debtors Debtor 1 Debtor 2					

FILING OFFICE COPY — NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 07/29/98)

# **Exhibit B**

**Pamela Singer**

---

**To:** Pamela Singer  
**Subject:** FW: A.F. Evans Company Ca UCC3.pdf  
**Importance:** High  
**Attachments:** Greenery CNB.pdf; Westgate CNB.pdf; Greenery Housing UCC3.pdf; Westgate Housing Ca UCC3.pdf

---


**From:** McDermott, Jerry [mailto:Jerry.McDermott@cnb.com]  
**Sent:** Thursday, January 08, 2009 2:23 PM  
**To:** Frank Pepler  
**Subject:** FW: A.F. Evans Company Ca UCC3.pdf  
**Importance:** High

Please review and advise

Jerry McDermott  
City National Bank  
555 South Flower Street, 16th floor  
Los Angeles, CA 90071  
213-673-8928  
Fax 213-673-8958

**This message is intended only for the use of the addressee and may contain confidential, privileged information. If you are not the intended recipient, you may not use, copy or disclose any information contained in the message. If you have received this message in error, please notify the sender by reply e-mail and delete the message.**

-----Original Message-----

 **From:** Rick Bell - Corporate [mailto:rbell@afevans.com]  
**Sent:** Thursday, January 08, 2009 2:11 PM  
**To:** McDermott, Jerry  
**Cc:** Natalia Williams - AF Evans Development, Inc.; Renée Stenesen; MLewis@fbm.com  
**Subject:** FW: A.F. Evans Company Ca UCC3.pdf  
**Importance:** High

Jerry attached are UCC releases and escrow instructions for Greenery and Westgate. We have separated them in case the closings are not simultaneous. At this point it looks like both will close tomorrow.

Please sign and submit to Renee at First American. Thank you.

Rick Bell  
AF Evans Company, Inc  
1000 Broadway, Suite 300  
Oakland, CA 94607  
Ph: 510.267.4682  
Fx: 510.891.9004  
rbell@afevans.com  
[www.afevans.com](http://www.afevans.com)



January 8, 2009

AF Evans Company, Inc.  
1000 Broadway, Suite 300  
Oakland CA 94607  
Attn: Rick Bell

First American Title Insurance Company  
1737 North First Street, Suite 100  
San Jose, CA 95112  
Attn: Renee Stevensen

Re: Sale of General Partner Interests in Greenery Housing Associates, L P by AF Evans Company, Inc. ("Debtor")

Dear Mr Bell and Ms Stevensen.

Effective upon the receipt by First American Title Insurance Company (the "Title Company") of the purchase price for the above-referenced sale and the Title Company's confirmation to the undersigned that it is prepared to close such sale and in connection therewith deliver \$37,500 to the account of City National Bank as set forth in Exhibit A, City National Bank hereby releases all of its right, title and interest in the property described on Exhibit B and authorizes the filing of appropriate amendments to UCC Financing Statement No 04-1000359638, filed with the Secretary of the State of California.

The Reliant Group, a California corporation, may rely upon the release and authorization set forth in this letter.

This letter shall be void and of no further effect if the above-referenced sale has not closed before the close of business on January 14, 2009.

CITY NATIONAL BANK

By \_\_\_\_\_

Its: \_\_\_\_\_

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**EXHIBIT A**  
**WIRING INSTRUCTIONS**

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**EXHIBIT B**

All of the right, title and interest of Debtor and Debtor's affiliates in and to cash flow and other distributions, capital profits and losses, tax credits, and otherwise in and to Greenery Housing Associates, L.P., a California limited partnership, and Westgate Housing Associates, L.P., a California Limited partnership (collectively, the "**Partnerships**"), including but not limited to all allocations and distributions, all management, voting and other rights under any organizational and operational agreements, and all rights to any receivables relating to The Greenery apartment project in Woodland, California or the Westgate Gardens apartment project in Fresno, California or the Partnerships, including but not limited to deferred development fees, management fees, incentive management fees, fees payable under any real service agreements (except for current liabilities (less than 30 days old) owed to Evans Property Management, Inc. in its capacity as property management aged for the Projects), partnership service agreements, or real estate brokerage agreements, member loans, voluntary loans, operating deficit loans, development deficit loans, credit adjustment notes, refunds of taxes, insurance, or any other overpayments made intentionally or unintentionally in any periods prior to January 8, 2009, and any other such receivables.

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January 8, 2009

AF Evans Company, Inc.  
1000 Broadway, Suite 300  
Oakland CA 94607  
Attn: Rick Bell

First American Title Insurance Company  
1737 North First Street, Suite 100  
San Jose, CA 95112  
Attn: Renee Stevensen

Re: Sale of General Partner Interests in Westgate Housing Associates L.P. by AF Evans Company, Inc. ("Debtor")

Dear Mr. Bell and Ms Stevensen:

Effective upon the receipt by First American Title Insurance Company (the "Title Company") of the purchase price for the above-referenced sale and the Title Company's confirmation to the undersigned that it is prepared to close such sale and in connection therewith deliver \$37,500 to the account of City National Bank as set forth in Exhibit A, City National Bank hereby releases all of its right, title and interest in the property described on Exhibit B and authorizes the filing of appropriate amendments to UCC Financing Statement No. 04-1000359638, filed with the Secretary of the State of California.

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CITY NATIONAL BANK

By \_\_\_\_\_

Its: \_\_\_\_\_

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**EXHIBIT A**  
**WIRING INSTRUCTIONS**

**22149\1834631 1**

**EXHIBIT B**

All of the right, title and interest of Debtor and Debtor's affiliates in and to cash flow and other distributions, capital profits and losses, tax credits, and otherwise in and to Greenery Housing Associates, L.P., a California limited partnership, and Westgate Housing Associates, L.P., a California Limited partnership (collectively, the "Partnerships"), including but not limited to all allocations and distributions, all management, voting and other rights under any organizational and operational agreements, and all rights to any receivables relating to The Greenery apartment project in Woodland, California or the Westgate Gardens apartment project in Fresno, California or the Partnerships, including but not limited to deferred development fees, management fees, incentive management fees, fees payable under any real service agreements (except for current liabilities (less than 30 days old) owed to Evans Property Management, Inc. in its capacity as property management aged for the Projects), partnership service agreements, or real estate brokerage agreements, member loans, voluntary loans, operating deficit loans, development deficit loans, credit adjustment notes, refunds of taxes, insurance, or any other overpayments made intentionally or unintentionally in any periods prior to January 8, 2009, and any other such receivables.

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**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]
B. SEND ACKNOWLEDGMENT TO: (Name and Address)
<div style="border: 1px solid black; padding: 10px; margin: 10px auto; width: 80%;"> A.F. Evans Company, Inc.  1000 Broadway, Suite 300  Oakland, CA 94607 </div>

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE # 04-1000359638	1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. <input type="checkbox"/>
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2. <input type="checkbox"/> <b>TERMINATION:</b> Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.
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3. <input type="checkbox"/> <b>CONTINUATION:</b> Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.
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4. <input type="checkbox"/> <b>ASSIGNMENT</b> (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

5. <b>AMENDMENT (PARTY INFORMATION):</b> This Amendment affects <input type="checkbox"/> Debtor or <input type="checkbox"/> Secured Party of record. Check only <u>one</u> of these two boxes. Also check <u>one</u> of the following three boxes and provide appropriate information in items 6 and/or 7. <input type="checkbox"/> CHANGE name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party. <input type="checkbox"/> DELETE name: Give record name to be deleted in item 6a or 6b. <input type="checkbox"/> ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

6. <b>CURRENT RECORD INFORMATION:</b>			
6a. ORGANIZATION'S NAME			
OR 6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7. <b>CHANGED (NEW) OR ADDED INFORMATION:</b>			
7a. ORGANIZATION'S NAME			

OR 7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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7d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE
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8. <b>AMENDMENT (COLLATERAL CHANGE):</b> check only <u>one</u> box. Describe collateral <input checked="" type="checkbox"/> deleted or <input type="checkbox"/> added, or give entire <input type="checkbox"/> restated collateral description, or describe collateral <input type="checkbox"/> assigned.	
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

All of the right, title and interest of Debtor and Debtor's affiliates in and to cash flow and other distributions, capital profits and losses, tax credits, and otherwise in and to Greenery Housing Associates, L.P., a California limited partnership, including but not limited to all allocations and distributions, all management, voting and other rights under any organizational and operational agreements, and all rights to any receivables relating to The Greenery apartment project in Woodland, California, including but not limited to deferred development fees, management fees, incentive management fees, fees payable under any real service agreements (except for current liabilities (less than 30 days old) owed to Evans Property Management, Inc. in its capacity as property management aged for the Project), partnership service agreements, or real estate brokerage agreements, member loans, voluntary loans, operating deficit loans, development deficit loans, credit adjustment notes, refunds of taxes, insurance, or any other overpayments made intentionally or unintentionally in any periods prior to January 8, 2009, and any other such receivables.

9. <b>NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT</b> (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here <input type="checkbox"/> and enter name of DEBTOR authorizing this Amendment.	
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9a. ORGANIZATION'S NAME City National Bank			
OR 9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

10. OPTIONAL FILER REFERENCE DATA
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FILING OFFICE COPY — UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 05/22/02)

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

**A. NAME & PHONE OF CONTACT AT FILER [optional]****B. SEND ACKNOWLEDGMENT TO: (Name and Address)**

A.F. Evans Company, Inc.  
1000 Broadway, Suite 300  
Oakland, CA 94607

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**1a. INITIAL FINANCING STATEMENT FILE #**

04-1000359638

**1b. This FINANCING STATEMENT AMENDMENT is**  
to be filed [for record] (or recorded) in the  
**REAL ESTATE RECORDS.**

**2. ☐ TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

**3. ☐ CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

**4. ☐ ASSIGNMENT (full or partial):** Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

**5. AMENDMENT (PARTY INFORMATION):** This Amendment affects ☐ Debtor or ☐ Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

☐ CHANGE name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.

☐ DELETE name: Give record name to be deleted in item 6a or 6b.

☐ ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

**6. CURRENT RECORD INFORMATION:****6a. ORGANIZATION'S NAME**

OR	<b>6b. INDIVIDUAL'S LAST NAME</b>	<b>FIRST NAME</b>	<b>MIDDLE NAME</b>	<b>SUFFIX</b>

**7. CHANGED (NEW) OR ADDED INFORMATION:****7a. ORGANIZATION'S NAME**

OR	<b>7b. INDIVIDUAL'S LAST NAME</b>	<b>FIRST NAME</b>	<b>MIDDLE NAME</b>	<b>SUFFIX</b>

<b>7c. MAILING ADDRESS</b>	<b>CITY</b>	<b>STATE</b>	<b>POSTAL CODE</b>	<b>COUNTRY</b>

<b>7d. SEE INSTRUCTIONS</b>	<b>ADD'L INFO RE ORGANIZATION DEBTOR</b>	<b>7e. TYPE OF ORGANIZATION</b>	<b>7f. JURISDICTION OF ORGANIZATION</b>	<b>7g. ORGANIZATIONAL ID #, if any</b>
				<input type="checkbox"/> NONE

**8. AMENDMENT (COLLATERAL CHANGE):** check only one box.

Describe collateral ☒ deleted or ☐ added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned.

All of the right, title and interest of Debtor and Debtor's affiliates in and to cash flow and other distributions, capital profits and losses, tax credits, and otherwise in and to Westgate Housing Associates, L.P., a California Limited partnership, including but not limited to all allocations and distributions, all management, voting and other rights under any organizational and operational agreements, and all rights to any receivables relating to Westgate Gardens apartment project in Fresno, California, including but not limited to deferred development fees, management fees, incentive management fees, fees payable under any real service agreements (except for current liabilities (less than 30 days old) owed to Evans Property Management, Inc. in its capacity as property management aged for the Project), partnership service agreements, or real estate brokerage agreements, member loans, voluntary loans, operating deficit loans, development deficit loans, credit adjustment notes, refunds of taxes, insurance, or any other overpayments made intentionally or unintentionally in any periods prior to January 8, 2009, and any other such receivables.

**9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this Amendment.

**9a. ORGANIZATION'S NAME**

City National Bank

OR	<b>9b. INDIVIDUAL'S LAST NAME</b>	<b>FIRST NAME</b>	<b>MIDDLE NAME</b>	<b>SUFFIX</b>

**10. OPTIONAL FILER REFERENCE DATA**

FILING OFFICE COPY — UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 05/22/02)



# **Exhibit C**

January 8, 2009

AF Evans Company, Inc.  
1000 Broadway, Suite 300  
Oakland CA 94607  
Attn: Rick Bell

First American Title Insurance Company  
1737 North First Street, Suite 100  
San Jose, CA 95112  
Attn: Renee Stevensen

Re: Sale of General Partner Interests in Greenery Housing Associates, L P by AF Evans Company, Inc. ("Debtor")

Dear Mr Bell and Ms Stevensen.

Effective upon the receipt by First American Title Insurance Company (the "Title Company") of the purchase price for the above-referenced sale and the Title Company's confirmation to the undersigned that it is prepared to close such sale and in connection therewith deliver \$37,500 to the account of City National Bank as set forth in Exhibit A, City National Bank hereby releases all of its right, title and interest in the property described on Exhibit B and authorizes the filing of appropriate amendments to UCC Financing Statement No. 04-1000359638, filed with the Secretary of the State of California.

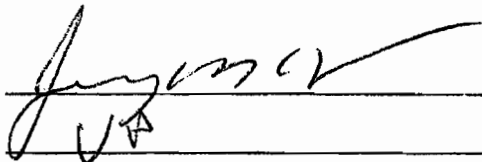
The Reliant Group, a California corporation, may rely upon the release and authorization set forth in this letter.

This letter shall be void and of no further effect if the above-referenced sale has not closed before the close of business on January 14, 2009.

CITY NATIONAL BANK

By

Its.



22149\1834631 1

EXHIBIT A  
WIRING INSTRUCTIONS

22149\1834631 1

EXHIBIT B

All of the right, title and interest of Debtor and Debtor's affiliates in and to cash flow and other distributions, capital profits and losses, tax credits, and otherwise in and to Greenery Housing Associates, L.P., a California limited partnership, and Westgate Housing Associates, L.P., a California Limited partnership (collectively, the "**Partnerships**"), including but not limited to all allocations and distributions, all management, voting and other rights under any organizational and operational agreements, and all rights to any receivables relating to The Greenery apartment project in Woodland, California or the Westgate Gardens apartment project in Fresno, California or the Partnerships, including but not limited to deferred development fees, management fees, incentive management fees, fees payable under any real service agreements (except for current liabilities (less than 30 days old) owed to Evans Property Management, Inc. in its capacity as property management agent for the Projects), partnership service agreements, or real estate brokerage agreements, member loans, voluntary loans, operating deficit loans, development deficit loans, credit adjustment notes, refunds of taxes, insurance, or any other overpayments made intentionally or unintentionally in any periods prior to January 8, 2009, and any other such receivables.

22149\1834631 1

January 8, 2009

AF Evans Company, Inc.  
1000 Broadway, Suite 300  
Oakland CA 94607  
Attn: Rick Bell

First American Title Insurance Company  
1737 North First Street, Suite 100  
San Jose, CA 95112  
Attn: Renee Stevensen

Re: Sale of General Partner Interests in Westgate Housing Associates L.P. by AF Evans Company, Inc. ("Debtor")

Dear Mr. Bell and Ms Stevensen:

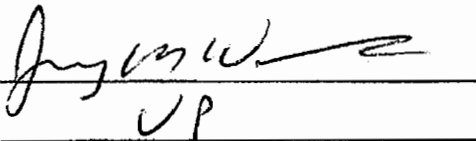
Effective upon the receipt by First American Title Insurance Company (the "Title Company") of the purchase price for the above-referenced sale and the Title Company's confirmation to the undersigned that it is prepared to close such sale and in connection therewith deliver \$37,500 to the account of City National Bank as set forth in Exhibit A, City National Bank hereby releases all of its right, title and interest in the property described on Exhibit B and authorizes the filing of appropriate amendments to UCC Financing Statement No. 04-1000359638, filed with the Secretary of the State of California.

The Reliant Group, a California corporation, may rely upon the release and authorization set forth in this letter

This letter shall be void and of no further effect if the above-referenced sale has not closed before the close of business on January 14, 2009

CITY NATIONAL BANK

By



Its:

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EXHIBIT A  
WIRING INSTRUCTIONS

22149\1834631 1

EXHIBIT B

All of the right, title and interest of Debtor and Debtor's affiliates in and to cash flow and other distributions, capital profits and losses, tax credits, and otherwise in and to Greenery Housing Associates, L.P., a California limited partnership, and Westgate Housing Associates, L.P., a California Limited partnership (collectively, the "**Partnerships**"), including but not limited to all allocations and distributions, all management, voting and other rights under any organizational and operational agreements, and all rights to any receivables relating to The Greenery apartment project in Woodland, California or the Westgate Gardens apartment project in Fresno, California or the Partnerships, including but not limited to deferred development fees, management fees, incentive management fees, fees payable under any real service agreements (except for current liabilities (less than 30 days old) owed to Evans Property Management, Inc. in its capacity as property management aged for the Projects), partnership service agreements, or real estate brokerage agreements, member loans, voluntary loans, operating deficit loans, development deficit loans, credit adjustment notes, refunds of taxes, insurance, or any other overpayments made intentionally or unintentionally in any periods prior to January 8, 2009, and any other such receivables

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# **Exhibit D**

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME &amp; PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

A.F. Evans Company, Inc.  
1000 Broadway, Suite 300  
Oakland, CA 94607

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #

04-1000359638

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2. ☐ **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.3. ☐ **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.4. ☐ **ASSIGNMENT** (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects ☐ Debtor or ☐ Secured Party of record. Check only one of these two boxes.Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.☐ **CHANGE** name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.☐ **DELETE** name: Give record name to be deleted in item 6a or 6b.☐ **ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).6. **CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

7. **CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

7c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

7d. **SEE INSTRUCTIONS**ADD'L INFO RE  
ORGANIZATION  
DEBTOR

7e. TYPE OF ORGANIZATION

7f. JURISDICTION OF ORGANIZATION

7g. ORGANIZATIONAL ID #, if any

☐ NONE8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.Describe collateral ☒ deleted or ☐ added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned.

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9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

City National Bank

OR

9b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

10. **OPTIONAL FILER REFERENCE DATA**

FILING OFFICE COPY — UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 05/22/02)

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME &amp; PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

A.F. Evans Company, Inc.  
1000 Broadway, Suite 300  
Oakland, CA 94607

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #

04-1000359638

1b. This FINANCING STATEMENT AMENDMENT is  
to be filed (for record) (or recorded) in the  
REAL ESTATE RECORDS.

2. ☐ **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3. ☐ **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. ☐ **ASSIGNMENT** (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

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☐ **DELETE** name: Give record name to be deleted in item 6a or 6b.

☐ **ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. **CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME

OR 6b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

7. **CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR 7b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

7c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

7d. **SEE INSTRUCTIONS**ADD'L INFO RE  
ORGANIZATION  
DEBTOR

7e. TYPE OF ORGANIZATION

7f. JURISDICTION OF ORGANIZATION

7g. ORGANIZATIONAL ID #, if any

☐ NONE8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.

Describe collateral ☒ deleted or ☐ added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned.

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9a. ORGANIZATION'S NAME

City National Bank

OR 9b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

10. **OPTIONAL FILER REFERENCE DATA**

FILING OFFICE COPY — UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 05/22/02)



# **Exhibit E**

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

<b>A. NAME &amp; PHONE OF CONTACT AT FILER (optional)</b>
<b>B. SEND ACKNOWLEDGMENT TO: (Name and Address)</b>
A.F. Evans Company, Inc. 1000 Broadway, Suite 300 Oakland, CA 94607

0971859849

01/28/2009 17:00



THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE # 04-1000359638		1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. <input type="checkbox"/>	
2. <input checked="" type="checkbox"/> <b>TERMINATION:</b> Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.			
3. <input type="checkbox"/> <b>CONTINUATION:</b> Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.			
4. <input type="checkbox"/> <b>ASSIGNMENT</b> (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.			
5. <b>AMENDMENT (PARTY INFORMATION):</b> This Amendment affects <input type="checkbox"/> Debtor or <input type="checkbox"/> Secured Party of record. Check only one of these two boxes. Also check one of the following three boxes and provide appropriate information in items 6 and/or 7. <input type="checkbox"/> <b>CHANGE</b> name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party. <input type="checkbox"/> <b>DELETE</b> name: Give record name to be deleted in item 6a or 6b. <input type="checkbox"/> <b>ADD</b> name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).			
6. <b>CURRENT RECORD INFORMATION:</b>			
6a. ORGANIZATION'S NAME			
OR	6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME SUFFIX
7. <b>CHANGED (NEW) OR ADDED INFORMATION:</b>			
7a. ORGANIZATION'S NAME			
OR	7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME SUFFIX
7c. MAILING ADDRESS		CITY	STATE POSTAL CODE COUNTRY
7d. <b>SEE INSTRUCTIONS</b>	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION
7g. ORGANIZATIONAL ID #, if any			<input type="checkbox"/> NONE

**8. AMENDMENT (COLLATERAL CHANGE):** check only one box.Describe collateral ☒ deleted or ☐ added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned.

All of the right, title and interest of Debtor and Debtor's affiliates in and to cash flow and other distributions, capital profits and losses, tax credits, and otherwise in and to Westgate Housing Associates, L.P., a California Limited partnership, including but not limited to all allocations and distributions, all management, voting and other rights under any organizational and operational agreements, and all rights to any receivables relating to Westgate Gardens apartment project in Fresno, California, including but not limited to deferred development fees, management fees, incentive management fees, fees payable under any real service agreements (except for current liabilities (less than 30 days old) owed to Evans Property Management, Inc. in its capacity as property management agent for the Project), partnership service agreements, or real estate brokerage agreements, member loans, voluntary loans, operating deficit loans, development deficit loans, credit adjustment notes, refunds of taxes, insurance, or any other overpayments made intentionally or unintentionally in any periods prior to January 8, 2009, and any other such receivables.

**9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME City National Bank			
OR	9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME SUFFIX

**10. OPTIONAL FILER REFERENCE DATA**

FILING OFFICE COPY — UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 05/22/02)

## UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME &amp; PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

A.F. Evans Company, Inc.  
1000 Broadway, Suite 300  
Oakland, CA 94607

0971859885

01/28/2009 17:00



FILED

CALIFORNIA  
SECRETARY OF STATE

SOS



19891850002 UCC 3 FILING

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #

04-1000359638

1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS.

2. ☒ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.3. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.4. ☐ ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.5. AMENDMENT (PARTY INFORMATION): This Amendment affects ☐ Debtor or ☐ Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

☐ CHANGE name and/or address. Please refer to the detailed instructions in regards to changing the name/address of a party.☐ DELETE name: Give record name to be deleted in item 6a or 6b.☐ ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION.

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

7c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

7d. SEE INSTRUCTIONS

ADD'L INFO RE  
ORGANIZATION  
DEBTOR

7e. TYPE OF ORGANIZATION

7f. JURISDICTION OF ORGANIZATION

7g. ORGANIZATIONAL ID #, if any

☐ NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box.

Describe collateral ☒ deleted or ☐ added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned.

All of the right, title and interest of Debtor and Debtor's affiliates in and to cash flow and other distributions, capital profits and losses, tax credits, and otherwise in and to Greenery Housing Associates, L.P., a California limited partnership, including but not limited to all allocations and distributions, all management, voting and other rights under any organizational and operational agreements, and all rights to any receivables relating to The Greenery apartment project in Woodland, California, including but not limited to deferred development fees, management fees, incentive management fees, fees payable under any real service agreements (except for current liabilities (less than 30 days old) owed to Evans Property Management, Inc. in its capacity as property management aged for the Project), partnership service agreements, or real estate brokerage agreements, member loans, voluntary loans, operating deficit loans, development deficit loans, credit adjustment notes, refunds of taxes, insurance, or any other overpayments made intentionally or unintentionally in any periods prior to January 8, 2009, and any other such receivables.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

City National Bank

OR

9b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

10. OPTIONAL FILER REFERENCE DATA

FILING OFFICE COPY — UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 05/22/02)

# **Exhibit F**



**SECRETARY OF STATE  
STATE OF CALIFORNIA**

**Search Certificate**

SEARCH REQUESTED ON:

04/22/2009

Organization Debtor: **A.F. EVANS**

Address: **NOT SPECIFIED**

Date Range From: **NOT SPECIFIED**

Search: **ALL**

**\* Indicates Filings that have been accepted after the Certification Date.**

<u>Original Filing #</u>	<u>Filing Type</u>	<u>File Date</u>	<u>File Time</u>	<u>Lapse Date</u>	<u># of Pages</u>
98-18861149	Financing Statement	07/06/1998	08:00	07/07/2008	1

**Debtor:**

**Organization:** A. F. EVANS COMPANY, INC.  
2000 CROW CANYON PL STE 130, SAN RAMON CA USA, 94583

**Secured Party:**

**Organization:** REDWOOD BANK  
735 MONTGOMERY ST, SAN FRANCISCO CA USA, 94111

<u>Amendment Filing #</u>	<u>Filing Type</u>	<u>File Date</u>	<u>File Time</u>	<u># of Pages</u>
02-085C0135	Termination	03/25/2002	15:43	1
03-091C0290	Continuation	03/28/2003	17:00	1

<u>Original Filing #</u>	<u>Filing Type</u>	<u>File Date</u>	<u>File Time</u>	<u>Lapse Date</u>	<u># of Pages</u>
98-30060942	Financing Statement	10/20/1998	08:00	10/20/2013	1

**Debtor:**

**Individual:** EVANS ARTHUR F  
2000 CROW CANYON PL, STE 130, SAN RAMON CA USA, 94583

**Organization:** A.F. EVANS COMPANY, INC.  
2000 CROW CANYON PL, STE 130, SAN RAMON CA USA, 94583

**Secured Party:**

**Organization:** CITY NATIONAL BANK  
831 SO DOUGLAS STREET STE#100, EL SEGUNDO CA USA, 90245



Continue

1000 BROADWAY, SUITE 450, OAKLAND CA USA, 94607

**Organization:** APPIAN GROUP INVESTORS II, LLC  
617 LOCUST STREET, SAUSALITO CA USA, 94965

<u>Amendment Filing #</u>	<u>Filing Type</u>	<u>File Date</u>	<u>File Time</u>	<u># of Pages</u>
04-70088132	Termination	12/17/2004	14:43	1

<u>Original Filing #</u>	<u>Filing Type</u>	<u>File Date</u>	<u>File Time</u>	<u>Lapse Date</u>	<u># of Pages</u>
04-17060445	Financing Statement	06/09/2004	17:00	06/09/2009	1

**Debtor:**

**Organization:** A.F. EVANS COMPANY, INC.  
1000 BROADWAY #450, OAKLAND CA USA, 94607

**Secured Party:**

**Organization:** DELL FINANCIAL SERVICES, L.P.  
12234 N. IH-35, BLDG. B, AUSTIN TX USA, 78753

<u>Original Filing #</u>	<u>Filing Type</u>	<u>File Date</u>	<u>File Time</u>	<u>Lapse Date</u>	<u># of Pages</u>
04-20862098	Financing Statement	07/21/2004	17:00	07/21/2009	1

**Debtor:**

**Organization:** A.F. EVANS COMPANY, INC.  
1000 BROADWAY SUITE 450, OAKLAND CA USA, 94607

**Secured Party:**

**Organization:** KEY EQUIPMENT FINANCE, A DIVISION OF KEY CORPORATE CAPITAL INC.  
66 SOUTH PEARL STREET, ALBANY NY USA, 12207

<u>Amendment Filing #</u>	<u>Filing Type</u>	<u>File Date</u>	<u>File Time</u>	<u># of Pages</u>
06-70653172	Termination	04/06/2006	12:35	1

<u>Original Filing #</u>	<u>Filing Type</u>	<u>File Date</u>	<u>File Time</u>	<u>Lapse Date</u>	<u># of Pages</u>
04-1000359638	Financing Statement	08/09/2004	13:48	08/09/2014	1

**Debtor:**

**Organization:** A. F. EVANS COMPANY, INC.  
1000 BROADWAY, SUITE 300, OAKLAND CA USA, 94607

Continue

**Debtor:**

**Organization:** A. F. EVANS COMPANY, INC.  
1000 BROADWAY, SUITE 300, OAKLAND CA USA, 94807

A.F. EVANS COMPANY, INC.  
1000 BROADWAY, SUITE 450, OAKLAND CA USA, 94607

**Secured Party:**

**Organization:** CITY NATIONAL BANK  
150 CALIFORNIA STREET, 13TH FLOOR, SAN FRANCISCO CA USA,  
94111

<u>Amendment Filing #</u>	<u>Filing Type</u>	<u>File Date</u>	<u>File Time</u>	<u># of Pages</u>
05-70183972	Amendment	03/07/2005	17:00	1
05-70289249	Amendment	05/31/2005	17:00	1
08-71584853	Amendment	05/16/2008	16:30	1
08-71586037	Amendment	05/19/2008	12:59	2
08-71825079	Amendment	12/23/2008	12:12	1
09-71859849	Termination	01/28/2009	17:00	1
09-71859885	Termination	01/28/2009	17:00	1
09-71869602	Amendment	02/05/2009	12:29	1
09-71869896	Amendment	02/05/2009	17:01	1
09-71869898	Amendment	02/05/2009	17:03	1
09-71893021	Continuation	03/03/2009	09:51	1

<u>Original Filing #</u>	<u>Filing Type</u>	<u>File Date</u>	<u>File Time</u>	<u>Lapse Date</u>	<u># of Pages</u>
04-1000360044	Financing Statement	08/09/2004	13:48	08/09/2009	1

**Debtor:**

**Organization:** A. F. EVANS COMPANY, INC.  
1000 BROADWAY, SUITE 300, OAKLAND CA USA, 94607

**Secured Party:**

**Organization:** CIVIC BANK OF COMMERCE  
2101 WEBSTER STREET, 14TH FLOOR, OAKLAND CA USA, 94612

<u>Amendment Filing #</u>	<u>Filing Type</u>	<u>File Date</u>	<u>File Time</u>	<u># of Pages</u>
06-70653168	Termination	04/06/2006	12:35	1

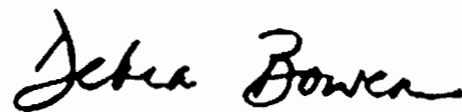
Continue

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Total Pages: 169

The undersigned Filing Officer hereby certifies that the above listing is a record of all presently active financing statements, tax liens, attachment liens and judgement liens, including any change documents relating to them, which name the above debtor, subject to any above-stated search qualifiers and are on file in my office as of **04/19/2009 at 1700 hours**.

The search results herein reflect only the specific information requested. The results of this Debtor search will not reflect variances of this name. If the Debtor is known under other personal names, trade names, business entities, or addresses, separate searches of these names will have to be requested and conducted. The Secretary of State, his officers and agents disclaim any and all liability for claims resulting from other filings on which the name of the Debtor can be found in any other form than which was requested.



Debra Bowen  
Secretary of State

# **Exhibit G**

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

**A. NAME & PHONE OF CONTACT AT FILER [optional]**T. Scott Bucey  
415-738-3342**B. SEND ACKNOWLEDGMENT TO: (Name and Address)**Pepler Mastromonaco LLP  
100 FIRST STREET  
25TH FLOOR  
San Francisco, CA 94105  
USA

DOCUMENT NUMBER: 19988460002

FILING NUMBER: 09-71869896

FILING DATE: 02/05/2009 17:01

IMAGE GENERATED ELECTRONICALLY FOR WEB FILING  
THE ABOVE SPACE IS FOR CA FILING OFFICE USE ONLY**1a. INITIAL FINANCING STATEMENT FILE #**

04-1000359638

1b. ☐ This FINANCING STATEMENT AMENDMENT is to be  
filed [for record] (or recorded) in the REAL ESTATE  
RECORDS.2. ☐ **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party  
authorizing this Termination.3. ☐ **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this  
Continuation Statement is continued for the additional period provided by applicable law.4. ☐ **ASSIGNMENT (full or partial):** Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects ☐ Debtor or ☐ Secured Party of record. Check only one of these.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.☐ **CHANGE** name and/or address: Please refer to the detailed  
instructions in regards to changing the name/address of a party.☐ **DELETE** name: Give record name to  
be deleted in item 6a or 6b.☐ **ADD** name: Complete item 7a or 7b,  
and also item 7c**6. CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

**7. CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

7c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

7d. SEE  
INSTRUCTIONS

ADD'L DEBTOR INFO

7e. TYPE OF  
ORGANIZATION7f. JURISDICTION  
OF ORGANIZATION

7g. ORGANIZATIONAL ID#, if any

☐ NONE**8. AMENDMENT (COLLATERAL CHANGE):** check only one box.Describe collateral ☐ deleted or ☐ added, or give entire ☒ restated collateral description, or describe collateral ☐ assigned.

In respect of that UCC Amendment filed as document no. 0971859849, Secured Party authorized only the release from initial financing statement 04-1000359638 of all right, title and interest of the Debtor and the Debtor's affiliates in and to the cash flow and other distributions from the Westgate Housing, L.P., as specifically provided in Paragraph 8 of document no. 0971859849 and Secured Party did not and does not authorize the termination pursuant to Paragraph 2 of document no. 0971859849 of initial financing statement 04-1000359638 or other amendment or modification to such initial financing statement.

**9. NAME of SECURED PARTY of RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this amendment.

a. ORGANIZATION'S NAME

city national bank

OR

b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

**10. OPTIONAL FILER REFERENCE DATA**

1664-0009

FILING OFFICE COPY



**UCC FINANCING STATEMENT AMENDMENT****FOLLOW INSTRUCTIONS (front and back) CAREFULLY****A. NAME & PHONE OF CONTACT AT FILER [optional]**T. Scott Bucey  
415-738-3342**B. SEND ACKNOWLEDGMENT TO: (Name and Address)**Pepler Mastromonaco LLP  
100 FIRST STREET  
25TH FLOOR  
San Francisco, CA 94105  
USA

DOCUMENT NUMBER: 19988460003

FILING NUMBER: 09-71869898

FILING DATE: 02/05/2009 17:03

IMAGE GENERATED ELECTRONICALLY FOR WEB FILING  
THE ABOVE SPACE IS FOR CA FILING OFFICE USE ONLY**1a. INITIAL FINANCING STATEMENT FILE #**

04-1000359638

**1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS.****2. TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination.**3. CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.**4. ASSIGNMENT (full or partial):** Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.**5. AMENDMENT (PARTY INFORMATION):** This Amendment affects ☐ Debtor or ☐ Secured Party of record. Check only one of these.Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.☐ CHANGE name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.☐ DELETE name: Give record name to be deleted in item 6a or 6b.☐ ADD name: Complete item 7a or 7b, and also item 7c**6. CURRENT RECORD INFORMATION:****6a. ORGANIZATION'S NAME**

OR

**6b. INDIVIDUAL'S LAST NAME**

FIRST NAME

MIDDLE NAME

SUFFIX

**7. CHANGED (NEW) OR ADDED INFORMATION:****7a. ORGANIZATION'S NAME**

OR

**7b. INDIVIDUAL'S LAST NAME**

FIRST NAME

MIDDLE NAME

SUFFIX

**7c. MAILING ADDRESS**

CITY

STATE

POSTAL CODE

COUNTRY

**7d. SEE INSTRUCTIONS**

ADD'L DEBTOR INFO

**7e. TYPE OF ORGANIZATION****7f. JURISDICTION OF ORGANIZATION****7g. ORGANIZATIONAL ID#, if any**☐ NONE**8. AMENDMENT (COLLATERAL CHANGE):** check only one box.Describe collateral ☐ deleted or ☐ added, or give entire ☒ restated collateral description, or describe collateral ☐ assigned.

In respect of that UCC Amendment filed as document no. 0971859885, Secured Party authorized only the release from initial financing statement 04-1000359638 of all right, title and interest of the Debtor and the Debtor's affiliates in and to the cash flow and other distributions from the Greenery Housing Associates, L.P., as specifically provided in Paragraph 8 of document no. 0971859885 and Secured Party did not and does not authorize the termination pursuant to Paragraph 2 of document no. 0971859885 of initial financing statement 04-1000359638 or other amendment or modification to such initial financing statement.

**9. NAME of SECURED PARTY of RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this amendment.

**a. ORGANIZATION'S NAME**

city national bank

**b. INDIVIDUAL'S LAST NAME**

FIRST NAME

MIDDLE NAME

SUFFIX

**10. OPTIONAL FILER REFERENCE DATA**

1664-0009

FILING OFFICE COPY

1 Maxim B. Litvak (CA Bar No. 215852)  
2 Pamela E. Singer (CA Bar No. 224758)  
3 PACHULSKI STANG ZIEHL & JONES LLP  
4 150 California Street, 15th Floor  
5 San Francisco, California 94111-4500  
6 Telephone: 415/263-7000  
7 Facsimile: 415/263-7010  
8 E-mail:mlitvak@pszjlaw.com  
9 psinger@pszjlaw.com

10 Attorneys for the Official Committee of Unsecured  
11 Creditors

12 UNITED STATES BANKRUPTCY COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 OAKLAND DIVISION

15 In re:

16 A.F. Evans Company, Inc.,

17 Debtor

Case No.: 09-41727-EDJ

Chapter 11

**CERTIFICATE OF SERVICE**

PACHULSKI STANG ZIEHL & JONES LLP  
ATTORNEYS AT LAW  
SAN FRANCISCO, CALIFORNIA

**PROOF OF SERVICE**

STATE OF CALIFORNIA )  
COUNTY OF SAN FRANCISCO )

I, Kati L. Suk, am employed in the city and county of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is 150 California Street, 15th Floor, San Francisco, California 94111-4500.

On May 5, 2009, I caused to be served the

**OBJECTION OF OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO DISTRIBUTION OF SALE PROCEEDS TO CITY NATIONAL BANK****DECLARATION OF MAXIM B. LITVAK IN SUPPORT OF OBJECTION OF OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO DISTRIBUTION OF SALE PROCEEDS TO CITY NATIONAL BANK**

by email or U.S. Mail as indicated on the attached service list:

*Please see attached Service List*

☒ (BY MAIL) I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Francisco, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ (BY EMAIL) I caused to be served the above-described document by email to the parties indicated on the attached service list at the indicated email address.

I declare under penalty of perjury, under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on May 5, 2009, at San Francisco, California.

Katherine Suk  
Katherine Suk

**Service List**

<b><u>VIA US MAIL</u></b>	<b><u>VIA EMAIL</u></b>	<b><u>VIA US MAIL</u></b>
<b>Debtor</b> A.F.Evans Company, Inc. Attn: Richard A. Bell Responsible Individual 1000 Broadway, Ste 300 Oakland, CA 94607	<b>Counsel to the Debtor</b> Chris D. Kuhner Eric Nyberg Kornfield, Nyberg, Bendes and Kuhner 1999 Harrison St. #2675 Oakland, CA 94612 Email: <a href="mailto:c.kuhner@kornfieldlaw.com">c.kuhner@kornfieldlaw.com</a> <a href="mailto:e.nyberg@kornfieldlaw.com">e.nyberg@kornfieldlaw.com</a>	<b>Office of the U.S. Trustee/Oak</b> Office of the U.S. Trustee 1301 Clay St. #690N Oakland, CA 94612
<b><u>Secured Creditors</u></b>		
	<b><u>VIA US MAIL</u></b> Central Valley Community Bank Attn: Pat Carment 60 W. 10 <sup>th</sup> Street Tracy, CA 95376	<b><u>VIA US MAIL</u></b> City National Bank Loan Center PO Box 60938 Los Angeles, CA 90060-0938
<b><u>VIA US MAIL</u></b> CP III Evans LLC 1000 Sansome St. Ste 180 San Francisco, CA 94111	<b><u>VIA US MAIL</u></b> Cushrex/Byron Park Investors LP 1801 Oakland Blvd. #200 Walnut Creek, CA 94596	<b><u>VIA US MAIL</u></b> Heritage Bank of Commerce 150 Almaden Blvd. San Jose, CA 95113
<b><u>Requests for Special Notice</u></b>		
<b><u>VIA EMAIL</u></b> <b>Attorneys for Donald Engle and Engle Development Services, Inc.</b> William E. Adams Quin E. Marshall David C. Lee Fitzgerald Abbott & Beardsley LLP 1221 Broadway, 21 <sup>st</sup> Floor Oakland, CA 94612 Email: <a href="mailto:wadams@fablaw.com">wadams@fablaw.com</a> <a href="mailto:qmarshall@fablaw.com">qmarshall@fablaw.com</a> <a href="mailto:dlee@fablaw.com">dlee@fablaw.com</a>	<b><u>VIA US MAIL</u></b> <b>Attorneys for Central Valley Community Bank</b> Mark V. Isola, Esq. Rehon & Roberts 10 Almaden Blvd., Suite 550 San Jose, CA 95113	<b><u>VIA US MAIL</u></b> <b>Representative for tw telecom inc.</b> Linda Boyle tw telecom inc. 10475 Park Meadows Drive, #400 Littleton, CO 80124

PACHULSKI STANG ZIEHL & JONES LLP  
ATTORNEYS AT LAW  
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